

ASSEMBLY BILL

No. 252

Introduced by Assembly Member Carter
(Principal coauthor: Senator Correa)

February 11, 2009

An act to add Section 2417.5 to the Business and Professions Code, relating to the practice of medicine.

LEGISLATIVE COUNSEL'S DIGEST

AB 252, as introduced, Carter. Practice of medicine: cosmetic surgery: employment of physicians and surgeons.

Existing law, the Medical Practice Act, establishes the Medical Board of California under the Department of Consumer Affairs, which licenses physicians and surgeons and regulates their practice.

The Medical Practice Act restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law makes it unlawful to knowingly make, or cause to be made, any false or fraudulent claim for payment of a health care benefit, or to aid, abet, solicit, or conspire with any person to do so, and makes a violation of this prohibition a public offense.

This bill would authorize the revocation of the license of a physician and surgeon who practices medicine with, or serves or is employed as the medical director of, a business organization that provides outpatient elective cosmetic medical procedures or treatments, as defined, knowing that the organization is owned or operated in violation of the prohibition against employment of licensed physicians and surgeons and podiatrists. The bill would also make a business organization that provides outpatient elective cosmetic medical procedures or treatments, that is

owned and operated in violation of the prohibition, and that contracts with or employs a physician and surgeon to facilitate the offer or provision of those procedures or treatments that may only be provided by a licensed physician and surgeon, guilty of a violation of the prohibition against knowingly making or causing to be made any false or fraudulent claim for payment of a health care benefit. Because the bill would expand a public offense, it would impose a state-mandated local program.

This bill would state that its provisions are declaratory of existing law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that the
2 Medical Practice Act restricts the employment of physicians and
3 surgeons by a corporation or other artificial legal entity, as
4 described in Article 18 (commencing with Section 2400) of Chapter
5 5 of Division 2 of the Business and Professions Code, and that the
6 prohibited conduct described in subdivisions (a) and (b) of Section
7 2417.5 of the Business and Professions Code, as added by this act,
8 is declaratory of existing law.

9 SEC. 2. Section 2417.5 is added to the Business and Professions
10 Code, to read:

11 2417.5. (a) In addition to any other remedies for a violation
12 of Section 2400 involving any other types of medical procedures,
13 a physician and surgeon who practices medicine with a business
14 organization that offers to provide, or provides, outpatient elective
15 cosmetic medical procedures or treatments, knowing that the
16 organization is owned or operated in violation of Section 2400,
17 may have his or her license to practice revoked. A physician and
18 surgeon who contracts to serve as, or otherwise allows himself or
19 herself to be employed as, the medical director of a business
20 organization that he or she does not own and that offers to provide

1 or provides outpatient elective cosmetic medical procedures or
2 treatments that may only be provided by the holder of a valid
3 physician's and surgeon's certificate under this chapter shall be
4 deemed to have knowledge that the business organization is in
5 violation of Section 2400.

6 (b) A business organization that offers to provide, or provides,
7 outpatient elective cosmetic medical procedures or treatments, that
8 is owned or operated in violation of Section 2400, and that
9 contracts with, or otherwise employs, a physician and surgeon to
10 facilitate its offers to provide, or the provision of, outpatient
11 elective cosmetic medical procedures or treatments that may only
12 be provided by the holder of a valid physician's and surgeon's
13 certificate is guilty of violating paragraph (6) of subdivision (a)
14 of Section 550 of the Penal Code.

15 (c) For purposes of this section, "outpatient elective cosmetic
16 medical procedures or treatments" means a medical procedure or
17 treatment that is performed to alter or reshape normal structures
18 of the body solely in order to improve appearance.

19 SEC. 3. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.